

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:	)	Chapter 15
)	
MOTORCYCLE TIRES & ACCESSORIES	)	Case No. 19-12706 (KBO)
LLC, <i>et al.</i> , ¹	)	Jointly Administered
)	
Debtors in a Foreign Proceeding)	
)	

**FOREIGN REPRESENTATIVE’S OMNIBUS MOTION SEEKING ENTRY OF AN
ORDER (I) AUTHORIZING (A) THE REJECTION OF CERTAIN UNEXPIRED
LEASES AND (B) ABANDONMENT OF CERTAIN PERSONAL PROPERTY, IF ANY,
EACH EFFECTIVE *NUNC PRO TUNC* TO THE APPLICABLE SURRENDER DATE
AND (II) GRANTING RELATED RELIEF**

**LANDLORDS RECEIVING THIS OMNIBUS LEASE REJECTION MOTION SHOULD
LOCATE THEIR NAMES AND LEASES IN THE SCHEDULE OF LEASES
ATTACHED HERETO AS EXHIBIT 1 TO EXHIBIT A.**

KPMG, Inc., (“KPMG” or the “Foreign Representative”), in its capacity as the court-appointed monitor and authorized foreign representative for the above-captioned debtors (collectively, the (“Debtors”)), in the Canadian proceeding (the “Canadian Proceeding”) commenced under the Companies’ Creditors Arrangement Act, R.S.C. 1985, c. C-36, as amended (the “CCAA”), pending before the Superior Court in Commercial Division in the District of Montreal (the “Canadian Court”), hereby moves (this “Motion”) this Court, for entry of an order, substantially in the form attached hereto as **Exhibit A** (the “Proposed Order”), pursuant to sections 105(a), 365, and 554 of title 11 of the United States Code (the “Bankruptcy Code”) and rules 6004(h) and 6006(f) of the Federal Rules of Bankruptcy Procedure (the

¹ The Debtors in these chapter 15 cases, along with the last four digits of each Debtor’s federal tax identification number, are: Motorcycle Tires & Accessories LLC (8629); Moncy Holding Company, Inc. (6755); Moncy Financial Services Company, Inc. (7515); Moncy LLC (3654); and Nichols Motorcycle Supply, Inc. (4371). The Debtors’ mailing address is 1550 Melissa Court, Corona, CA 92879.

“Bankruptcy Rules”), (a) authorizing (i) the rejection of certain unexpired leases (each, a “Lease,” and collectively, the “Leases”) of nonresidential real property located at the premises (collectively, the “Premises”), as set forth on Exhibit 1 to Exhibit A attached hereto and (ii) the abandonment of certain equipment, fixtures, furniture, or other personal property (the “Personal Property”) that may be located at the Premises, each effective *nunc pro tunc* to the respective departure date listed on Exhibit 1 to Exhibit A (each a “Surrender Date” and collectively the “Surrender Dates”); and (b) granting related relief. In support of the Motion, the Debtors rely upon the *Declaration of Maxime Codère in Support of Foreign Representative’s (I) Verified Petitions under Chapter 15, (II) Motion for Joint Administration, (III) Motion for Provisional and Final Relief in Recognition of a Foreign Main Proceeding, (IV) Motion to Establish Certain Notice Procedures in Connection with Filing of Verified Petitions under Chapter 15 and (V) Motion to Assume Agency Agreement* (the “Codère Declaration”).² In further support of the Motion, the Debtors, by and through their undersigned counsel, respectfully represent as follows:

JURISDICTION AND VENUE

1. This Court has jurisdiction to consider this Motion pursuant to 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware, dated as of February 29, 2012.

2. These cases have been properly commenced pursuant to section 1504 of the Bankruptcy Code by the filing of petitions for recognition (collectively, the “Petitions for Recognition”) of the Canadian Proceeding pursuant to section 1515 of the Bankruptcy Code. On January 22, 2020, the Court entered the *Order Granting Final Relief in Recognition of a*

² Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the Codère Declaration.

Foreign Main Proceeding Pursuant to Sections 105(a), 1519, 1520 and 1521 of the Bankruptcy Code [D.I. 38], recognizing the Canadian Proceeding as a foreign main proceeding.

3. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2).
4. Venue is proper in this Court and this District pursuant to 28 U.S.C. § 1410.
5. The statutory predicates for the relief requested herein are Bankruptcy Code sections 105(a), 365(a), 554(a), and 1521(a) and Bankruptcy Rules 6004, 6006, and 6007, and Local Rule 9013-1.

BACKGROUND

6. On December 19, 2019, (the “Petition Date”), the Foreign Representative filed with this Court verified voluntary petitions (collectively, the “Chapter 15 Petitions”) for each of the Debtors under chapter 15 of the Bankruptcy Code (the “Chapter 15 Cases”).

7. The Canadian Proceeding was commenced under the CCAA, pursuant to which the Canadian Court entered an order appointing KPMG as monitor and authorizing it to act as foreign representative of the Debtors on December 2, 2019 (as amended and restated on December 12, 2019, the “CCAA Order”).

8. Additional information about the Debtors’ business, the events leading up to the Petition Date, and the facts and circumstances surrounding the Debtors, the Canadian Proceeding and the Chapter 15 Cases can be found in the Codère Declaration.

9. On the Petition Date, the Foreign Representative filed the *Foreign Representative’s Motion for Interim and Final Orders Authorizing (I) the Debtors to Assume the Agency Agreement, (II) the Conduct of the Store Closing Sales, with Such Sales to be Free and Free and Clear of All Liens, Claims and Encumbrances, and (III) Granting Related Relief* (the “Store Closing Sales Motion”) [D.I. 8], seeking authorization for the Debtors to enter into an

agency agreement (the “Agency Agreement”) with Gordon Brothers Commercial & Industrial LLC (“Gordon Brothers”) to conduct liquidation sales at certain of the Debtors’ assets located at the Premises that are subject to the Leases.

10. On January 22, 2020, the Court entered an order approving the Store Closing Sales Motion on a final basis [D.I. 37].

11. Pursuant to the Agency Agreement, Gordon Brothers has been conducting the liquidation sales at the Premises and expects to complete the liquidation sales process and vacate the Premises on or before the respective Surrender Dates.

RELIEF REQUESTED

12. The Debtors seek entry of the Proposed Order: (a) authorizing the rejection of the Leases for nonresidential real property located at the Premises, as set forth on **Exhibit 1** to the Proposed Order and (ii) the abandonment of Personal Property that may be located at the Premises, each effective *nunc pro tunc* to the respective Surrender Dates; and (b) granting related relief.

LEASES TO BE REJECTED

13. Through this Motion, the Foreign Representative seeks authority for the Debtors to reject the Leases to preserve value for their estates by avoiding unnecessary rent and other costs. The Debtors seek to reject the Leases effective as of the Surrender Dates. Debtors will provide the affected landlords (the “Landlords”) notice of the Debtors’ irrevocable and unequivocal surrender of the Premises on, or prior to, the respective Surrender Dates.

14. Debtors have determined in their business judgment that the Leases to be rejected will provide no benefit to the Debtors’ estates or these Chapter 15 Cases. By rejecting the Leases, the Debtors will save a substantial amount in rent and associated costs. Absent

rejection, the Debtors could be obligated to pay rent under the Leases should the applicable Landlords seek rent for these properties, even though the Debtors will no longer be in possession of such store locations. Moreover, in addition to their obligations to pay rent and other associated costs under the Leases, the Debtors would be obligated to pay certain real property taxes, utilities, insurance, and other related charges associated with the Leases. The Debtors have determined in their business judgment that such costs would be burdensome to the Debtors' estates. Additionally, the Debtors have determined in their business judgment that the costs of the Leases exceed any marginal benefits that could potentially be achieved from assignments or subleases of the Leases.

15. Accordingly, in an effort to reduce post-petition administrative costs and in the exercise of the Debtors' sound business judgment, the Foreign Representative requests authority for the Debtors to reject the Leases set forth on **Exhibit 1** to the Proposed Order attached hereto as **Exhibit A**, effective as of the respective Surrender Dates.

PERSONAL PROPERTY TO BE ABANDONED

16. Because the Debtors plan to not operate warehouses at the Premises, the Personal Property located at the Premises for the Leases sought to be rejected, if any, will no longer be necessary for the administration of the Debtors' estates. Accordingly, to reduce post-petition administrative costs and, in the exercise of the Debtors' sound business judgment, the Debtors believe that the abandonment of the Personal Property that may be located at each of the Premises, if any, is appropriate and in the best interests of the Debtors, their estates, and their creditors.

BASIS FOR RELIEF

A. Rejection of the Leases is Appropriate and Provides the Debtors with Significant Cost Savings.

17. Section 365(a) of the Bankruptcy Code, made applicable to these Chapter 15 Cases pursuant to section 1521(a)(7), provides that a debtor in possession, “subject to the court’s approval, may . . . reject any executory contract or unexpired lease of the debtor.” 11 U.S.C. § 365(a). The decision to assume or reject an executory contract or unexpired lease is a matter within the “business judgment” of the debtor. *See Nat’l Labor Relations Bd. v. Bildisco & Bildisco (In re Bildisco)*, 682 F.2d 72, 79 (3d Cir. 1982) (“The usual test for rejection of an executory contract is simply whether rejection would benefit the estate, the ‘business judgment’ test.” (citation omitted)); *see also Glenstone Lodge, Inc. v. Buckhead Am. Corp. (In re Buckhead Am. Corp.)*, 180 B.R. 83, 88 (Bankr. D. Del. 1995). Application of the business judgment standard requires a court to approve a debtor’s business decision unless the decision is the product of bad faith, whim, or caprice. *See Lubrizol Enters., Inc. v. Richmond Metal Finishes*, 756 F.2d 1043, 1047 (4th Cir. 1985). Further, “[t]his provision allows a trustee to relieve the bankruptcy estate of burdensome agreements which have not been completely performed.” *Stewart Title Guar. Co. v. Old Republic Nat’l Title Ins. Co.*, 83 F.3d 735, 741 (5th Cir. 1996) (citation omitted).

18. Rejection of an unexpired lease is appropriate where such rejection would benefit the estate. *See Sharon Steel Corp. v. Nat’l Fuel Gas Distrib. Corp. (In re Sharon Steel Corp.)*, 872 F.2d 36, 39-40 (3d Cir. 1989). Upon finding that a debtor has exercised its sound business judgment in determining that rejection of certain contracts or leases is in the best interests of its creditors and all parties in interest, a court should approve the rejection under section 365(a). *See In re Fed. Mogul Glob., Inc.*, 293 B.R. 124, 126 (D. Del. 2003); *In re Bradlees Stores, Inc.*,

194 B.R. 555, 558 n.1 (Bankr. S.D.N.Y. 1996), *appeal dismissed*, 210 B.R. 506 (S.D.N.Y. 1997); *In re Summit Land Co.*, 13 B.R. 310, 315 (Bankr. D. Utah 1981) (holding that absent extraordinary circumstances, court approval of a debtor’s decision to assume or reject an executory contract “should be granted as a matter of course”).

19. The Leases are not a source of potential value for the Debtors’ estates or stakeholders. The Debtors’ obligations to pay, for example, postpetition rent, real estate taxes, utilities, insurance, and other related charges for vacant Premises eliminates any potential value of the Leases to the Debtors’ estates—including any potential value from an assignment or sublease. Accordingly, the Debtors have determined that the Leases constitute unnecessary drains on the estates’ resources and, therefore, rejection of the Leases reflects the Debtors’ exercise of sound business judgment.

B. The Abandonment of Personal Property is Appropriate.

20. The abandonment of the Personal Property is appropriate and authorized by the Bankruptcy Code. *See* 11 U.S.C. §§ 554(a); 1521(a)(7). Section 554(a) provides that “[a]fter notice and a hearing, the trustee may abandon any property of the estate that is burdensome to the estate or that is of inconsequential value and benefit to the estate.” 11 U.S.C. § 554(a). Courts generally give a debtor in possession great deference to its decision to abandon property. *See, e.g., In re Vel Rey Props., Inc.*, 174 B.R. 859, 867 (Bankr. D.D.C. 1994) (“Clearly, the court should give deference to the trustee’s judgment in such matters.”). Unless certain property is harmful to the public, once a debtor has shown that it is burdensome or of inconsequential value to the estate, a court should approve the abandonment. *Id.*

21. Before deciding to abandon the Personal Property, if any, the Debtors determined whether the costs of moving and storing such Personal Property outweigh any benefit to the

Debtors' estates. Further, any efforts by the Debtors to move or further market the Personal Property could unnecessarily delay the Debtors' surrender of the Premises and the rejection of the Leases. Accordingly, it is in the best interests of the Debtors and their estates for the Debtors to abandon Personal Property located on the Premises.

22. Courts in this jurisdiction have approved relief similar to the relief requested herein. *See, e.g., In re Things Remembered, Inc.*, No. 19-10234 (KG) (Bankr. D. Del. Feb. 28, 2019) (authorizing, but not directing, the debtors to abandon personal property that may be located at the debtors' leased premises that are subject to a rejected lease); *In re Charming Charlie Holdings Inc.*, No. 17-12906 (CSS) (Bankr. D. Del. Jan. 10, 2018) (same); *In re Dex Media, Inc.*, No. 16-11200 (KG) (Bankr. D. Del. June 8, 2016) (same); *In re Sports Auth. Holdings, Inc.*, No. 16-10527 (MFW) (Bankr. D. Del. Apr. 4, 2016) (same); *In re Samson Res. Corp.*, No. 5-11934 (CSS) (Bankr. D. Del. Feb. 19, 2016) (same).

C. This Court Should Deem the Leases Rejected *Nunc Pro Tunc* to the Respective Surrender Dates.

23. Section 365 of the Bankruptcy Code does not restrict a bankruptcy court from applying rejection retroactively. *See In re Jamesway Corp.*, 179 B.R. 33, 37 (S.D.N.Y. 1995) (stating that section 365 does not include “restrictions as to the manner in which the court can approve rejection”); *see also In re CCI Wireless, LLC*, 297 B.R. 133, 138 (D. Colo. 2003) (noting that section 365 “does not prohibit the bankruptcy court from allowing the rejection of [leases] to apply retroactively”). Courts have held that a bankruptcy court may, in its discretion, authorize rejection retroactively to a date prior to entry of an order authorizing such rejection where the balance of equities favors such relief. *See In re Thinking Machs. Corp.*, 67 F.3d 1021, 1028-29 (1st Cir. 1995) (stating that “rejection under section 365(a) does not take effect until judicial approval is secured, but the approving court has the equitable power, in suitable

cases, to order a rejection to operate retroactively”); *In re Chi-Chi’s, Inc.*, 305 B.R. 396, 399 (Bankr. D. Del. 2004) (stating “the court’s power to grant retroactive relief is derived from the bankruptcy court’s equitable powers so long as it promotes the purposes of § 365(a)”); *CCI Wireless*, 297 B.R. at 140 (holding that a “court has authority under section 365(d)(3) to set the effective date of rejection at least as early as the filing date of the motion to reject”); *BP Energy Co. v. Bethlehem Steel Corp. (In re Bethlehem Steel Corp.)*, No. 03-6419, at *3 (S.D.N.Y. Nov. 15, 2002) (“We cannot conclude . . . that a bankruptcy court’s assignment of a retroactive rejection date falls outside of its authority when the balance of the equities favors this solution.”); *see also In re At Home Corp.*, 392 F.3d 1064, 1065-66 (9th Cir. 2004) (holding “that a bankruptcy court may approve retroactively the rejection of an unexpired nonresidential lease”).

24. In *In re Namco Cybertainment, Inc.*, the Court stated that retroactive rejection of an unexpired lease was permissible, provided: (a) the premises (and the keys thereto) were surrendered with an unequivocal statement of abandonment to the landlord; (b) the motion was served on the landlord; (c) the official committee consented to the requested relief; and (d) the debtor waived its right to withdraw the motion. No. 98-173 (PJW) (Bankr. D. Del. Feb. 6, 1998); *see also TW, Inc. v. Angelastro (In re TW, Inc.)*, No. 03-10785, at *2 (D. Del. Jan. 14, 2004) (upholding bankruptcy court ruling denying rejection of leases *nunc pro tunc* to the petition date when the debtor had not surrendered possession prior to the petition date).

25. Here, the balance of equities favors rejection of the Leases *nunc pro tunc* to the respective Surrender Dates. Without such relief, the Debtors will potentially incur unnecessary administrative expenses related to the Leases—agreements that provide no benefit to the Debtors’ estates. *See* 11 U.S.C. § 365(d)(3). The Landlords will not be unduly prejudiced if the

rejection is deemed effective as of the Surrender Dates. Possession of the Premises will be delivered to each respective Landlord on, or prior to, the respective Surrender Dates with an unequivocal and irrevocable statement of surrender and abandonment of the Premises to such Landlord. Further, by this Motion, the Landlords are receiving notice of the Debtors' intention to reject the Leases. Contemporaneously with the filing of this Motion, the Debtors will cause notice of this Motion to be served on the Landlords, thereby allowing each party sufficient opportunity to respond accordingly. The Debtors have sought the relief requested at the earliest possible moment in these Chapter 15 Cases and do not seek to reject the Leases effective *nunc pro tunc* to the Surrender Dates due to any undue delay on their own part.

26. Furthermore, no official committee has been appointed in these cases, obviating the requirement that the official committee consent to the requested relief herein and the Debtors hereby waive their right to withdraw the Motion, thus satisfying the elements for retroactive rejection of an unexpired lease.

27. Courts in this jurisdiction have approved relief similar to that requested herein. *See, e.g., In re Things Remembered, Inc.*, No. 19-10234 (KG) (Bankr. D. Del. Feb. 28, 2019) (authorizing debtors' rejection of certain license agreements *nunc pro tunc* to prior notice date); *In re Charming Charlie Holdings Inc.*, No. 17-12906 (CSS) (Bankr. D. Del. Jan. 10, 2018) (authorizing rejection of unexpired leases *nunc pro tunc* to prior notice date); *In re Quicksilver Res. Inc.*, No. 15-10585 (LSS) (Bankr. D. Del. Apr. 15, 2015) (authorizing rejection of executory contracts effective as of specified dates); *In re QCE Fin. LLC*, No. 14-10543 (PJW) (Bankr. D. Del. Apr. 9, 2014) (authorizing rejection of unexpired leases *nunc pro tunc* to the petition date); *In re Longview Power, LLC*, No. 13-12211 (BLS) (Bankr. D. Del. Feb. 26, 2014) (authorizing rejection of unexpired leases *nunc pro tunc* to prior notice date).

28. Accordingly, the Debtors respectfully submit that the Court deem the Leases rejected, effective *nunc pro tunc* to the respective Surrender Dates.

RESERVATION OF RIGHTS

29. Nothing contained herein is intended or shall be construed as: (i) an admission as to the validity, amount or priority of any claim against the Debtors or the Foreign Representative; (ii) a waiver of the Debtors' or Foreign Representative's rights to dispute any claim; (iii) a promise or requirement to pay any claim; (iv) a waiver of any claim or cause of action of the Debtors or the Foreign Representative that exists against any entity; (v) a ratification or assumption of any agreement, contract or lease under section 365 of the Bankruptcy Code; (vi) a waiver of limitation of the Debtors' or Foreign Representative's rights under the Bankruptcy Code, any other applicable law or any agreement; or (vii) an admission or concession by the Debtors or the Foreign Representative that any lien is valid, and the Debtors and the Foreign Representative expressly reserve and preserve their rights to contest the extent, validity, or perfection, or seek avoidance of, any lien.

COMPLAINEE WITH BANKRUPTCY RULE 6006(f)

30. Bankruptcy Rule 6006(f) establishes requirements for an omnibus motion to reject executory contracts or unexpired leases. Specifically, Bankruptcy Rule 6006(f) states, in part, that such a motion shall: (a) "state in a conspicuous place that parties receiving the omnibus motion should locate their names and their contracts or leases listed in the motion," (b) "list parties alphabetically and identify the corresponding contract or lease," (c) "be numbered consecutively with other omnibus motions to assume, assign, or reject executory contracts or unexpired leases," and (d) "be limited to no more than 100 executory contracts or unexpired

leases.” Fed. R. Bankr. P. 6006(f). The Debtors respectfully submit that the relief requested in this Motion complies with the requirements of Bankruptcy Rule 6006(f).

REQUEST FOR IMMEDIATE RELIEF AND WAIVER OF STAY

31. Pursuant to Bankruptcy Rule 6004(h), the Debtors seek a waiver of any stay of the effectiveness of an order granting this Motion, to the extent that it applies to the relief requested in this Motion. Bankruptcy Rule 6004(h) provides that “[a]n order authorizing the use, sale, or lease of property other than cash collateral is stayed until the expiration of 14 days after entry of the order, unless the court orders otherwise.” The relief requested in this Motion is essential to avoid the potential accrual of unnecessary administrative expenses. Accordingly, the Debtors submit that, to the extent that Bankruptcy Rule 6004(h) applies, ample cause exists to justify a waiver of the fourteen-day stay.

NOTICE

32. The Foreign Representative has provided notice of this Motion to the following parties or their respective counsel: (a) the office of the U.S. Trustee for the District of Delaware; (b) counsel to BMO; (c) the Landlords; and (d) any party that has requested notice pursuant to Bankruptcy Rule 2002. In light of the nature of the relief requested herein, the Foreign Representative submits that no other or further notice of this Motion is necessary or required.

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CONCLUSION

WHEREFORE, the Foreign Representative respectfully requests this Court enter the Proposed Order, substantially in the form attached hereto, granting the relief requested herein and all other and further relief as this Court deems just and proper.

Dated: March 13, 2020
Wilmington, Delaware

POTTER ANDERSON & CORROON LLP

/s/ R. Stephen McNeill

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*Counsel to KPMG Inc., as Monitor and Foreign
Representative for the Debtors*

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:	)	Chapter 15
)	
MOTORCYCLE TIRES & ACCESSORIES LLC, <i>et al.</i> , ¹	)	Case No. 19-12706 (KBO)
	)	Jointly Administered
)	
Debtors in a Foreign Proceeding	)	Hearing Date: April 23, 2020 at 2:00 p.m. (ET)
	)	Objection Deadline: March 27, 2020 at 4:00 p.m. (ET)

**NOTICE OF MOTION REGARDING FOREIGN REPRESENTATIVE’S OMNIBUS
MOTION SEEKING ENTRY OF AN ORDER (I) AUTHORIZING (A) THE
REJECTION OF CERTAIN UNEXPIRED LEASES AND (B) ABANDONMENT OF
CERTAIN PERSONAL PROPERTY, IF ANY, EACH EFFECTIVE *NUNC PRO TUNC*
TO THE APPLICABLE SURRENDER DATE AND (II) GRANTING RELATED RELIEF**

PLEASE TAKE NOTICE that KPMG, Inc., (“KPMG” or the “Foreign Representative”), in its capacity as the court-appointed monitor and authorized foreign representative for the above-captioned debtors (collectively, the (“Debtors”)) filed the *Foreign Representative’s Omnibus Motion Seeking Entry of an Order (I) Authorizing (A) the Rejection of Certain Unexpired Leases and (B) Abandonment of Certain Personal Property, if any, Each Effective Nunc Pro Tunc to the Applicable Surrender Date and (II) Granting Related Relief* (the “Motion”) with the United States Bankruptcy Court for the District of Delaware (the “Court”).

PLEASE TAKE FURTHER NOTICE that objections to the Motion, if any, must be in writing, filed with the Clerk of the United States Bankruptcy Court for the District of Delaware, 3rd Floor, 824 North Market Street, Wilmington, Delaware 19801, on or before **March 27, 2020 at 4:00 p.m. (ET)** (the “Objection Deadline”) and served upon and received by the undersigned attorneys for the Foreign Representative.

¹ The Debtors in these chapter 15 cases, along with the last four digits of each Debtor’s federal tax identification number, are: Motorcycle Tires & Accessories LLC (8629); Moncy Holding Company, Inc. (6755); Moncy Financial Services Company, Inc. (7515); Moncy LLC (3654); and Nichols Motorcycle Supply, Inc. (4371). The Debtors’ mailing address is 1550 Melissa Court, Corona, CA 92879.

PLEASE TAKE FURTHER NOTICE that, if any objections to the Motion are received, the Motion and such objections shall be considered at a hearing before the Honorable Karen B. Owens at the Bankruptcy Court, 824 Market Street, 6th Floor, Courtroom 3, Wilmington, Delaware 19801 on **April 23, 2020 at 2:00 p.m. (ET)**.

IF NO OBJECTIONS TO THE MOTION ARE TIMELY FILED, SERVED AND RECEIVED IN ACCORDANCE WITH THIS NOTICE, THE COURT MAY GRANT THE RELIEF REQUESTED IN THE MOTION WITHOUT FURTHER NOTICE OR HEARING.

Dated: March 13, 2020
Wilmington, Delaware

POTTER ANDERSON & CORROON LLP

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Counsel to KPMG Inc., as Monitor and Foreign Representative for the Debtors

EXHIBIT A
(PROPOSED ORDER)

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

	)	Chapter 15
In re:)	
MOTORCYCLE TIRES & ACCESSORIES	)	Case No. 19-12706 (KBO)
LLC, <i>et al.</i> , ¹	)	Joint Administration Requested
Debtors in a Foreign Proceeding)	

ORDER GRANTING FOREIGN REPRESENTATIVE’S OMNIBUS MOTION SEEKING ENTRY OF AN ORDER (I) AUTHORIZING (A) THE REJECTION OF CERTAIN UNEXPIRED LEASES AND (B) ABANDONMENT OF CERTAIN PERSONAL PROPERTY, IF ANY, EACH EFFECTIVE *NUNC PRO TUNC* TO THE APPLICABLE SURRENDER DATE AND (II) GRANTING RELATED RELIEF

Upon consideration of the motion (the “Motion”)² of KPMG, Inc., (“KPMG” or the “Foreign Representative”), in its capacity as the court-appointed monitor and duly authorized foreign representative for the above-captioned debtors (collectively, the “Debtors”) in the Canadian proceedings (the “Canadian Proceeding”) commenced under the under the Companies’ Creditors Arrangement Act, R.S.C. 1985, c. C-36, as amended (the “CCAA”), pending before the Superior Court in Commercial Division in the in the District of Montreal (the “Canadian Court”) and upon consideration of the Codère Declaration; and this Court having found that it has jurisdiction over this matter pursuant to 28 U.S.C. §§ 1334(b) and 157, and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware dated as of February 29, 2012; and this Court having found that venue of these Chapter 11 Cases and the Motion in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and this Court having found that this matter is a core proceeding pursuant to 28 U.S.C. §

¹ The Debtors in these chapter 15 cases, along with the last four digits of each Debtor’s federal tax identification number, are: Motorcycle Tires & Accessories LLC (8629); Moncy Holding Company, Inc. (6755); Moncy Financial Services Company, Inc. (7515); Moncy LLC (3654); and Nichols Motorcycle Supply, Inc. (4371). The Debtors’ mailing address is 1550 Melissa Court, Corona, CA 92879.

² Capitalized terms not otherwise defined herein shall have the meaning ascribed to such terms in the Motion.

157(b); and this Court having found that notice of the Motion has been given as set forth in the Motion and that such notice is adequate and no other or further notice need be given; and this Court having determined that it may enter a final order consistent with Article III of the United States Constitution; and this Court having found that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and this Court having found that the relief sought in the Motion is in the best interests of the Debtors, their estates, their creditors and all other parties in interest; and after due deliberation and sufficient cause appearing therefor,

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED THAT:

1. The Motion is GRANTED, as set forth herein.
2. Each of the Leases set forth on **Exhibit 1** attached hereto is rejected, effective *nunc pro tunc* to the respective surrender date listed on **Exhibit 1** (each a “Surrender Date” and collectively the “Surrender Dates”).
3. The Debtors are authorized to abandon the Personal Property, if any, that may be located on the Premises and all such property is deemed abandoned effective *nunc pro tunc* to respective Surrender Dates. The applicable counterparty to each Lease may utilize or dispose of such Personal Property in its sole and absolute discretion without further notice or liability to any party (including the Debtors) claiming an interest in such abandoned property. The automatic stay, to the extent applicable, is modified to allow for such utilization or disposition. The rights of the counterparty to each Lease to assert claims for the disposition of the Personal Property are reserved as are all parties’ rights to object to such claims.
4. Notwithstanding the relief granted in this Order and any actions taken pursuant to such relief, nothing in this Order shall be deemed: (i) an admission as to the validity, amount or priority of any claim against the Debtors or the Foreign Representative; (ii) a waiver of the Debtors’ or Foreign Representative’s rights to dispute any claim; (iii) a promise or requirement

to pay any claim; (iv) a waiver of any claim or cause of action of the Debtors or the Foreign Representative that exists against any entity; (v) a ratification or assumption of any agreement, contract or lease under section 365 of the Bankruptcy Code; (vi) a waiver of limitation of the Debtors' or Foreign Representative's rights under the Bankruptcy Code, any other applicable law or any agreement; or (vii) an admission or concession by the Debtors or the Foreign Representative that any lien is valid, and the Debtors and the Foreign Representative expressly reserve and preserve their rights to contest the extent, validity, or perfection, or seek avoidance of, any lien.

5. Notice of the Motion as provided therein shall be deemed good and sufficient notice of such Motion and the requirements of Bankruptcy Rule 6004(a) and the Local Rules are satisfied by such notice.

6. Notwithstanding Bankruptcy Rule 6004(h), the terms and conditions of this Order are immediately effective and enforceable upon its entry.

7. The Debtors are authorized to take all actions necessary to effectuate the relief granted in this Order in accordance with the Motion.

8. This Court retains exclusive jurisdiction with respect to all matters arising from or related to the implementation, interpretation, and enforcement of this Order.

EXHIBIT 1
(LIST OF REJECTED LEASES)

LIST OF REJECTED LEASES

Debtor/Lessee	Landlord/Lessor	Property Location	Name of Contract	Surrender Date
Motorcycle Tires and Accessories, LLC	PE Ventures Consulting LLC	6497 Hwy 33 Choudrant, LA, 71227	Commercial Warehouse Contract of Lease	March 13, 2020
Motorcycle Tires and Accessories, LLC	IMC NA LLC	28210 Cedar Park Blvd Perrysburg, OH, 43551	Lease Agreement	March 20, 2020
Motorcycle Tires and Accessories, LLC	EP Ventures Consulting LLC	1550 Melissa Court Corona, CA, 92879	Commercial Warehouse Contract of Lease	March 27, 2020

CERTIFICATE OF SERVICE

I, R. Stephen McNeill, hereby certify that on this 13th day of March 2020, I caused a true and correct copy of the foregoing *Foreign Representative's Omnibus Motion Seeking Entry of an Order (I) Authorizing (A) the Rejection of Certain Unexpired Leases and (B) Abandonment of Certain Personal Property, if any, Each Effective Nunc Pro Tunc to the Applicable Surrender Date and (II) Granting Related Relief* to be served upon the parties on the attached service list via first class mail, postage pre-paid.

/s/ R. Stephen McNeill

R. Stephen McNeill (DE Bar No. 5210)

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File a Motion:[19-12706-KBO Maxime Codere and Motorcycle Tires & Accessories LLC](#)

Type: bk

Chapter: 15 v

Office: 1 (Delaware)

Judge: KBO

Case Flag: LEAD

U.S. Bankruptcy Court**District of Delaware**

Notice of Electronic Filing

The following transaction was received from R. Stephen McNeill entered on 3/13/2020 at 5:59 PM EDT and filed on 3/13/2020

Case Name: Maxime Codere and Motorcycle Tires & Accessories LLC**Case Number:** [19-12706-KBO](#)**Document Number:** [46](#)**Docket Text:**

Motion to Authorize // *Foreign Representative's Omnibus Motion Seeking Entry of an Order (I) Authorizing (A) the Rejection of Certain Unexpired Leases and (B) Abandonment of Certain Personal Property, if any, Each Effective Nunc Pro Tunc to the Applicable Surrender Date and (II) Granting Related Relief* Filed by Maxime Codere. Hearing scheduled for 4/23/2020 at 02:00 PM at US Bankruptcy Court, 824 Market St., 6th Fl., Courtroom #3, Wilmington, Delaware. Objections due by 3/27/2020. (Attachments: # (1) Notice # (2) Exhibit A # (3) Certificate of Service) (McNeill, R. Stephen)

The following document(s) are associated with this transaction:

Document description:Main Document**Original filename:**Omni Motion to Reject Leases.pdf**Electronic document Stamp:**

[STAMP bkecfStamp_ID=983460418 [Date=3/13/2020] [FileNumber=16284899-0] [a59df74c2f67c50df4ee9bac914d1824ef6c51b2e6dff885222a5051442ef78e99028aaacb178a3850be7728b073f5883e269bb7c4196003fd8312d32e5e733c]]

Document description:Notice**Original filename:**C:\fakepath\Omni Motion to Reject Leases_Notice.pdf**Electronic document Stamp:**

[STAMP bkecfStamp_ID=983460418 [Date=3/13/2020] [FileNumber=16284899-1] [6508080d35a95131b068ad7bc376623cdc3b0957bbeb33acced11412f0e50c80d1bed9e49989dece7ad84a136065bbfe20ac3e1bb952a28b97c04d6f5424aed6]]

Document description:Exhibit A**Original filename:**C:\fakepath\Omni Motion to Reject Leases_Ex A.pdf**Electronic document Stamp:**

[STAMP bkecfStamp_ID=983460418 [Date=3/13/2020] [FileNumber=16284899-2] [667d39f553d99d88d34584e3cb0ee73707e21a1994841ca4ee46b98e3a09e7ba75ccf730234d62e7d3a0550f2a7bee5a895b25cbf92e0c3d132d3f5db0bf8cae]]

Document description:Certificate of Service**Original filename:**C:\fakepath\Omni Motion to Reject Leases_COS.pdf